

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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XAVIER PETTIFORD,

Plaintiff,

-against-

CITY OF NEW YORK, DETECTIVE PATRICK
FITZSIMONS, DETECTIVE ERIC RYAN, and
DETECTIVE JASON ZUMMO,

Defendants.
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**STIPULATION AND
ORDER OF
SETTLEMENT OF
ATTORNEY'S FEES,
EXPENSES, AND
COSTS**

17-CV-5273 (ILG) (JO)

WHEREAS, plaintiff Xavier Pettiford commenced this action by filing a complaint on or about September 8, 2017, alleging that defendants City of New York, Detective Patrick Fitzsimons, Detective Eric Ryan, and Detective Jason Zummo violated his federal civil and state common law rights; and

WHEREAS, defendants served plaintiff with an Offer of Judgment pursuant to Fed. R. Civ. P. 68 on July 19, 2018; and

WHEREAS, plaintiff accepted defendants' Offer of Judgment on July 20, 2018; and

WHEREAS, all defendants deny any and all liability arising out of plaintiff's allegations; and

WHEREAS, plaintiff's counsel represents that plaintiff has assigned all of his rights to attorneys' fees, expenses, and costs to Bernstein Clarke & Moskovitz PLLC; and

WHEREAS, counsel for defendants and counsel for plaintiff now desire to resolve the issue of attorneys' fees, expenses, and costs without further proceedings;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for the respective parties to the above-captioned

action, as follows:

1. Defendant City of New York hereby agrees to pay Bernstein Clarke & Moskovitz PLLC, the total sum of One Hundred Thirty Thousand (\$130,000.00) Dollars within forty-five (45) days that this stipulation and accompanying general releases are executed and returned to defendants' counsel, in full satisfaction of plaintiff's claims for attorneys' fees, expenses, and costs. In consideration for the payment of One Hundred Thirty Thousand (\$130,000.00) Dollars, counsel for plaintiff agrees to release and discharge defendants City of New York, Detective Fitzsimons, Detective Ryan and Detective Zummo; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all claims of attorneys' fees, expenses, and costs that were or could have been alleged in the aforementioned action.

2. Counsel for plaintiff hereby agrees and represents that no other claims for attorneys' fees, expenses, or costs arising out of this action shall be made by or on behalf of plaintiff in any application for attorneys' fees, expenses, or costs at any time.

3. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiffs rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules or regulations of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this agreement.

4. This Stipulation and Order contains all the terms and conditions agreed upon

by counsel for defendants and counsels for plaintiff hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of attorneys' fees, expenses, or costs shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

BERNSTEIN CLARKE & MOSKOVITZ
PLLC

Attorneys for Plaintiff
11 Park Avenue, Suite 914
New York, NY 10007

By: 

Joshua Moskovitz
Attorney for Plaintiff

Dated: New York, New York
_____, 2018

ZACHARY W. CARTER
Corporation Counsel of the
City of New York

*Attorney for Defendants City of New York,
Fitzsimons, Ryan, and Zummo*
100 Church Street, 3rd Floor
New York, New York 10007

By: 

Evan Brustein
Senior Counsel

SO ORDERED:

HON. I. LEO GLASSER
UNITED STATES DISTRICT JUDGE